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In re Application of:
Braddock
Serial No.: 09/636,484
Filed: August 10, 2000
Attorney Docket No.: **OSEM-DB3**

DECISION ON PETITION

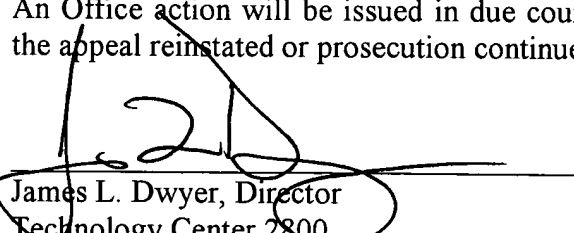
This is a decision in response to the communication filed June 14, 2004. The communication has been treated as a petition under 37 C.F.R. § 1.181, requesting reconsideration of (1) the Notice of Non-Compliance with 37 CFR 1.192(c) mailed October 21, 2003, (2) the Appeal Brief originally filed April 29, 2003 be considered on appeal, (3) the Information Disclosure Statement filed on February 27, 2004 and April 14, 2004 be considered, (4) the Amendment filed April 29, 2003 be entered, and (5) the Examiner's Answer mailed May 28, 2004 be withdrawn.

The petition is **GRANTED**.

The mailing of the Notice of Non-Compliance with 37 CFR 1.192 on October 21, 2003 was in error since "any of the claims [of the instant application] has been twice rejected" prior to the filing of the Notice of Appeal on November 14, 2002. The Information Disclosure Statement filed February 27, 2004 and April 14, 2004 will be considered pursuant to 37 CFR 1.97.

As for the remaining issues, due to the special circumstances surrounding the prosecution history of the instant application, including the filing of an after appeal amendment, and multiple versions of the Appeal Brief based on various status of claims, the Examiner's Answer will be vacated, and the after appeal amendment will be entered.

An Office action will be issued in due course, at which time the applicant may choose to have the appeal reinstated or prosecution continued.


James L. Dwyer, Director
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